

Message Text

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ACTION NEA-10

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R 071315Z SEP 76

FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 6160

INFO AMEMBASSY ABU DHABI

AMEMBASSY ALGIERS

AMEMBASSY AMMAN

USINT BAGHDAD

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KHARTOUM

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY RABAT

AMEMBASSY SANA

AMEMBASSY TRIPOLI

C O N F I D E N T I A L SECTION 1 OF 3 KUWAIT 4265

E.O. 11652: GDS

TAGS: PINT, PGOV, KU

SUBJ: RULE BY DECREE IN KUWAIT: NATURE, DURATION AND THEN WHAT?

REF: (A) KUWAIT 4127, (B) KUWAIT 4140 (NOTAL) (C) KUWAIT 4163

1. SUMMARY: THE AMIRI ORDERS OF AUGUST 29, TO REVISE THE CONSTITUTION AND DISSOLVE THE NATIONAL ASSEMBLY, ALONG WITH STATEMENTS BY AMIR, CROWN PRINCE AND OTHERS, INDICATE THAT KUWAIT IS NOW IN A POLITICAL TRANSITION PERIOD OF UP TO FOUR YEARS DURATION. THERE HAS BEEN LITTLE OVERT OPPOSITION TO THE AMIR'S MOVES SO FAR, BUT THIS DOES NOT MEAN THAT NONE WILL DEVELOPE
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AS THE TRANSITION PERIOD UNFOLDS. DURING THIS PERIOD A REVISED

CONSTITUTION APPARENTLY WILL BE PRODUCED WHICH, RECENT STATEMENTS IMPLY, WOULD REDUCE THE POWER OF THE NATIONAL ASSEMBLY TO DELAY LEGISLATION AND CRITICIZE CABINET MEMBERS. THE ASSEMBLY ITSELF PROBABLY WILL BE REESTABLISHED, EITHER DURING THE TRANSITION PERIOD OR AT ITS END. HOWEVER, THE CONSTITUTION MAY ALSO BE "TAILORED" IN OTHER WAYS TO PROVIDE A MORE "STABLE", PERHAPS MORE TRADITIONAL FORM OF REPRESENTATIVE GOVERNMENT. THE CONSTITUTION WILL REMAIN THE BASIC POLITICAL CHARTER, BUT UNDER IT INDIVIDUAL FREEDOMS MAY BE SOMEWHAT MORE CIRCUMSCRIBED. IN THE MEANTIME, WE EXPECT THE CABINET, WHICH NOW HOLDS LEGISLATIVE POWER, TO COME FORTH SHORTLY WITH CONSIDERABLE SOCIAL LEGISLATION TO PROMOTE THE WELFARE OF THE KUWAITI POPULATION. WHILE MORE CONSERVATIVE ELEMENTS WOULD BE CONTENT NEVER TO SEE NATIONAL ASSEMBLY REAPPEAR, PRESSURE FOR RETURN TO DEMOCRATIC DEVELOPEMENT OF THE POLITICAL SYSTEM WILL LIKELY GROW, GENERATED BY IMPACT OF MODERNIZATION PROCESS ON KUWAIT. END SUMMARY.

2. CONCET AND NATURE OF CONSTITUTIONAL REVISIONS. TAKEN TOGETHER, SEVERAL RECENT PUBLIC PRONOUNCEMENTS BY KUWAITI LEADERS INDICATE THAT THOSE WHO RULE KUWAIT VIEW THE CURRENT STATE OF POLITICAL AFFAIRS HERE AS A TRANSITIONAL PERIOD, DURING WHICH TIME CONSTITUTIONAL REFORMS WILL TAILOR THE CONSTITUTION MORE CLOSELY TO INDIGENOUS POLITICAL TRADITIONS AND TO THE OVERRIDING INTERESTS OF A MORE "STABLE" DEMOCRACY, IN WHICH INDIVIDUAL FREEDOM WILL BE SOMEWHAT MORE CIRCUMSCRIBED (OVER) THAN IN THE PAST. IN TAKING THE AUGUST 29 POLITICAL MOVES NOTED REFTELS, THE AMIR LEFT MOST OF THE CONSTITUTION UNTOUCHED AND HE AND OTHER KUWAITI LEADERS HAVE BEEN CAREFUL TO POINT OUT THAT SUSPENSION OF SEVERAL CONSTITUTIONAL PROVISIONS IS A TEMPORARY MEASURE. THE MAIN THRUST OF THEIR EXPLANATORY REMARKS IS THAT KUWAITI DEMOCRACY IS TO UNDERGO A TRANSITIONAL PHASE BEFORE EMERGING IN NEW FORM. NO KUWAITI LEADER HAS CLEARLY INDICATED THE NATURE OF THE REFORMS CONTEMPLATED, BUT THERE HAVE BEEN SOME INDICATIONS THAT BASIC CHANGES WILL BE MADE IN THE CONSTITUTION.

3. ONE OF THE CENTRAL POINTS MADE IN THE AMIR'S SPEECH (REF B) IS THAT "SOUNC DEMOCRACY" IS WHAT HE WANTS; THE CONSTITUTION OF 1962 HAS BEGUN TO BE INADEQUATE AS A FRAMEWORK TO MAINTAIN THE KIND OF DEMOCRACY APPROPRIATE TO KUWAIT. THUS HE SUSPENDED, AND INTENDS TO SEE REVISED, THE WEAK ASPECTS OF THAT FRAMEWORK, CONFIDENTIAL

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PERHAPS EVEN SOME CONSTITUTIONAL PROVISIONS WHICH WERE NOT SUSPENDED. IN DOING SO, HE NOTED AND REAFFIRMED HIS OWN CONSTITUTION AL OATH (BY WHICH HE SWORE " TO RESPECT THE CONSTITUTION"), AND HE EXPLAINED HIS ACTION IN TERMS OF A HIGHER DUTY TO PRESERVE FREEDOM, "BETTER ESTABLISHED AND MORE STABILIZED." THE CROWN PRINCE/PRIME MINISTER, IN HIS SPEECH TO NATION AUGUST 31 (REF C), INDICATED THAT MAIN GOAL IS TO PRESERVE "DEMOCRATIC

SYSTEM" INCLUDING CONSTITUTION, BUT HE NOTED THAT THERE ARE PRECEDENTS FOR DEMOCRACY SUPPLEMENTARY TO AND MORE TRADITIONAL THAN KUWAIT'S 14-YEAR-OLD EXPERIENCE WITH A PARLIAMENTARY SYSTEM. IN THIS CONTEXT HE REFERRED TO THE "SHURA"SYSTEM (RULE BY A SHAIKH BOUND BY ISLAMIC LAWS AND CHOSEN BY CONSENSUS OF TRIBAL LEADERS). TAKEN AT HIS WORD, HOWEVER, CROWN PRINCE ENVISIONS "A DEMOCRACY THAT BRINGS ABOUT A NATIONAL ASSEMBLY THAT REPRESENTS ALL CATEGORIES OF PEOPLE...WHERE THE MEMBERS OF THE NATIONAL ASSEMBLY WILL REPRESENT THE WHOLE PEOPLE AND NOT THE GROUP OR SECT TO WHICH HE BELONGS..." THIS COULD CONCEIVABLE PRESAGE A CHANGE FROM THE CURRENT GEOGRAPHIC DISTRICT REPRESENTATIONAL SYSTEM IN THE NATIONAL ASSEMBLY TO ANOTHER KIND OF SYSTEM. SINILARLY, IN STATEMENT TO KUWAITI NEWSPAPER (AL WABAS, SEPT 1) THE AMIR'S SON, MINISTER FOR SOCIAL AFFAIBS AND LABOUR, EMPHASIZED THAT MAIN GOAL OF THE REFORMS ANNOUNCED AUGUST 29 WAS SAFEGUARDING OF "DEMOCRACY AND FREEDOM," AND "FATHERLAND, UNITY AND DECENT LIFE" AGAINST "EXPLOITERS". HE CONFIRMED THAT CONSTITUTIONAL SUSPENSION WAS "TEMPORARY" ONE TO CORRECT "DEFECTS" IN KUWAIT'S DEMOCRATIC "EXPERIMENT". MAIN THRUST OF STATEMENT WAS NEED TO PROVIDE "SECURITY AND STABILITY", TO "ENSURE DECENT LIFE TO THE GOOD CITIZEN".

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4. THE FONMIN UNDERSEC RASHED AL RASHED PUT IT MORE PRECISELY TO THE AMBASSADOR RECENTLY. HE NOTED THAT KUWAIT'S 14-YEAR-OLD EXPERIMENT WITH DEMOCRACY BEGAN WHEN THE NATIONAL POPULATION WAS ONE-THIRD OF WHAT IT IS TODAY, AND THAT THERE HAVE BEEN SOME IMMENSE POLITICAL AND ECONOMIC CHANGES, BOTH WITHIN AND OUTSIDE KUWAIT, SINCE THEN. UNDERSEC CAUTIONED AGAINST OBSERVERS CONCLUDING THAT DEMOCRACY IS DEAD IN KUWAIT, NOTING THAT KUWAIT HAD A DEMOCRATIC TRADITION (RULE BY TRIBAL CONSENSUS) ANTEDATING ITS CURRENT CONSTITUTION AND THAT THE KUWAITI PEOPLE STILL HAVE DIRECT ACCESS TO THE AMIR EVERYDAY AT HIS PUBLIC AUDIENCE (MAJLIS). (WE UNDERSTAND THAT THE DAILY MAJLIS CONTINUED UNDISTURBED LAST WEEK AS MINISTERS RESIGNED, THE ASSEMBLY WAS DISSOLVED, CONFIDENTIAL

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THE PRESS CURBED, THE CONSTITUTION PARTIALLY SUSPENDED.) FINALLY, ONE LEADING EDITOR (AUGUST 30, AL SIYASAH) OPINED THAT "DEMOCRATIC NEGATIVES" MUST NOT BE ALLOWED TO RETARD THE DEVELOPEMENT OF A COUNTRY WHICH RESTS ON LARGE OIL RESERVES OF "HIGHLY STRATEGIC IMPORTANCE". ANOTHER EDITOR (AL QABAS, SEPT 1) ASSERTED THAT BEFORE THE 1980'S THE GREAT POWERS WILL CONSPIRE TO ACHEIVE A "STATE OF STABILITY" IN THE MIDDLE EAST "AND SOME SORT OF UNITY AND AMALGAMATION AMONG THE COUNTRIES OF THE REGION MAY BE WITNESSED", THUS PRESENTING CHALLENGES WHICH KUWAIT MUST BE PREPARED TO MEET. ALLUDING TO RECENT AMIRI ACTIONS, EDITOR NOTED "PREVENTION IS BETTER THAN CURE".

5. LEGAL NICETIES OF CONSTITUTIONAL CHANGE. WHILE THE AMIR'S AUGUST 29 MOVES PROVIDED AN ARRAY OF ISSUES FOR CONSTITUTIONAL LAWYERS TO DEBATE, TWO POINTS STAND OUT. FIRST, UNDER ARTICLE 181 OF THE KUWAITI CONSTITUTION OF 1962, THE AMIR WAS EXPRESSLY BARRED FROM SUSPENDING ANY ARTICLE OF THAT CONSTITUTION, EXCEPT AFTER DECLARING MARTIAL LAW, WHICH HE DID NOT DECLARE. THUS, IT SEEMS THAT THE AMIR ACTED UNCONSTITUTIONALLY WHEN HE SUSPENDED SEVERAL PROVISIONS OF THE CONSTITUTION WITHOUT DECLARING MARTIAL LAW. (THE FACT THAT HE SUSPENDED THE ARTICLE BARRING HIS OWN ACTION (181) RAISES A LEGAL PARADOX.) SECOND, BY DECLARING HIS INTENTION TO SUBMIT CONSTITUTIONAL "REVISIONS" EITHER TO "THE NEXT NATIONAL ASSEMBLY" OR TO THE "ELECTORS... FOR REFERENDUM", THE AMIR HAS SERVED NOTICE THAT, WHILE HE MIGHT ADHERE TO THE CONSTITUTIONAL FORM TO AMEND THE DOCUMENT--ARTICLE 174, PARA 2

PROVIDES THAT THE NATIONAL ASSEMBLY MUST PASS AMENDMENT BY A TWO-THIRDS MAJORITY--HE ALSO MIGHT ACT IN VIOLATION OF THIS PROVISION, BY SUBMITTING PROPOSED CONSTITUTIONAL REVISIONS DIRECTLY TO THE PEOPLE. (IF HE CHOOSES THE SECOND COURSE, HIS LAWYERS SHOULD TELL HIM THAT LEGAL NICETIES WOULD REQUIRE HIM TO SUSPEND ARTICLE 174, PARA 2, BEFOREHAND.)

6. TIMING OF CONSTITUTIONAL CHANGE. THE AMIR'S DECREE ON CONSTITUTIONAL CHANGES SAYS THAT ANOTHER DECREE WILL BE ISSUED WHICH WILL ESTABLISH A CONSTITUTIONAL REVISION COMMITTEE. NO OFFICIAL STATEMENTS OR DOCUMENTS YET SUGGEST WHEN THIS COMMITTEE MIGHT BE CREATED. HOWEVER, APPARENTLY THE AMIR DID NOT INTEND TO LEAVE HIMSELF THE OPTION TO REFRAIN INDEFINITELY FROM ESTABLISHING THE COMMITTEE, BECAUSE HE DID DECREE THAT ITS "PROPOSALS" FOR A REVISED CONSTITUTIONAL TEXT SHALL BE PRESENTED FOR ADOPTION

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BEFORE AUGUST 29, 1980, FOUR YEARS FROM THE DATE OF THE DECREE SUSPENDING CERTAIN ARTICLES OF THE CONSTITUTION. (THE REVISED TEXT IS TO BE PRESENTED TO THE "NEXT NATIONAL ASSEMBLY" OR TO THE "ELECTORATE FOR REFERENDUM.") THE SAME DECREE THAT SETS THE FOUR YEAR LIMIT ALSO PROMISES THAT, ONCE ESTABLISHED, THE CONSTITUTIONAL REVISION COMMITTEE WILL COMPLETE ITS WORK WITHIN SIX MONTHS AND ROUTE ITS "PROPOSALS" FOR CHANGES THROUGH THE CABINET TO THE AMIR. BUT THE AMIR WILL APPARENTLY RETAIN THE OPTION NOT TO PRESENT THE CONSTITUTIONAL AMENDMENT TO A POPULAR REFERENDUM OR TO THE "NEXT NATIONAL ASSEMBLY", UNTIL THE FOUR YEAR PERIOD COMES TO AN END.

7. THE FUTURE OF THE NATIONAL ASSEMBLY. THE FUTURE EXISTENCE OF THE KUWAITI NATIONAL ASSEMBLY ITSELF IS NOT ASSURED. WHILE THE CROWN PRINCE INDICATES THERE WILL BE AN ASSEMBLY (PARA 3, ABOVE), THE DECREES ISSUED ON AUGUST 29 GIVE NO HINT AS TO WHEN IT MIGHT BE REESTABLISHED. WE DO NOT BELIEVE THAT EITHER THE AMIR OR THE CROWN PRINCE FAVOUR KEEPING KUWAIT WITHOUT A LEGISLATIVE BODY INDEFINITELY, BUT THE DATE SET FOR RECONSTITUTING THE ASSEMBLY WILL DEPEND PARTLY ON FACTORS OVER WHICH THE KUWAITI LEADERS HAVE NO CONTROL--THE INTERNAL PALESTINIAN PROBLEM, THE STATE OF TURMOIL IN THE ARAB WORLD, SPECIFIC INTERNAL LEGISLATION WHICH MAY BE NEEDED IN THE FUTURE IN RESPONSE TO INTERNAL DEVELOPEMENTS, ETC.

8. WHENEVER THE "NEXT NATIONAL ASSEMBLY" APPEARS, IT SEEMS FAIR TO ASSUME THAT ITS LEGISLATIVE POWER WILL BE REDUCED, PROBABLY BY MODIFYING THE PROCEDURES UNDER WHICH IT OPERATES AND POSSIBLY BY LIMITING ITS SUBSTANTIVE POWER TO DELAY OR DISAPPROVE GOVERNMENT BILLS. (ALSO, PERHAPS ITS SYSTEM OF REPRESENTATION WILL BE CHANGED, AS THE CROWN PRINCE MAY BE SUGGESTING--PARA 3, ABOVE). WE MAKE THESE ASSUMPTIONS BECAUSE THE AMIRI ORDER OF AUGUST 29 TO REVISE THE CONSTITUTION ACCUSED THE

ASSEMBLY OF "FREEZING" LEGISLATION, "DELAYING", AND ACEIVING
"PERSONAL GAINS". ALSO, THE CROWN PRINCE'S LETTER TO THE AMIR
(SAME SAY), IN WHICH HE RESIGNED AS PRIME MINISTER, ACCUSED THE
ASSEMBLY OF "FAILURE TO CONSIDER DRAFT LAWS", WASTING SESSINGS,
AND ATTACKING MINISTERS TO THE DEGREE THAT THEIR WORK WAS INTER-
RUPTED. UNLESS THESE COMPLAINTS WERE MERE WINDOW DRESSING FOR
DISSOLUTION OF THE ASSEMBLY--WE DON'T THINK THEY WERE-- WE
EXPECT THAT THE PROMISED CONSTITUTIONAL REVISION WILL CONTAIN
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"PROPOSALS" DESIGNED TO REMEDY THE DEFECTS ABOUT WHICH THE AMIR
AND CROWN PRINCE HAVE COMPLAINED. WE ALSO NOTE THAT THE MODERN
PARLIAMENTARY SYSTEM IN KUWAIT HAS BEEN SAID TO INTERFERE WITH
THE TRADITIONAL DIRECT ACCESS OF THE PEOPLE TO THE RULERS,
WHCIH MAY BE A FACTOR ENCOURAGING PUBLIC SUPPORT FOR REDUCING
THE POWER OF THE NATIONAL ASSEMBLY.

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9. FIRST MOVES ON PENDING LEGISLATION. WE EXPECT THE PRIME MINISTER AND CABINET TO ACT SWIFTLY TO CLEAR UP THE DEFUNCT ASSEMBLY'S VERY LARGE "IN BOX". AMONG THE MANY BILLS WHICH WERE PENDING BEFORE IT, IN VARIOUS STAGES OF CONSIDERATION, WERE: SEVERAL REVISIONS OF THE ANTIQUATED PENAL CODE (ONE PENDING SEVERAL YEARS); A HALF-DOZEN BILLS TO IMPROVE OR EXPAND SOCIAL WELFARE, HOUSING, MEDICAL, AND EDUCATIONAL SERVICES IN KUWAIT; BILLS TO RAISE SALARIES AND ALTER PERSONNEL RULES FOR SEVERAL PARTS OF THE GOVERNMENT; A NEW RENT LAW (WHICH IS SORELY NEEDED); RATIFICATION OF SEVERAL AIR TRAFFIC AGREEMENTS WITH FOREIGN GOVERNMENTS; AND AN INTEREST-FREE LOAN TO SYRIA OF THE EQUIVALENT OF \$3.5 BILLION. ALSO, A RECENT PRESS REPORT (AL SIYASAH, CONFIDENTIAL

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SEPT 4) ALLEGES THAT THE CROWN PRINCE IS CONSIDERING LIBERALIZATION OF KUWAIT'S NATIONALITY LAWS TO GRANT KUWAITI CITIZENSHIP TO MORE RESIDENTS OF KUWAIT. THIS WOULD BE AN IMPORTANT AND WELCOME STEP IF IT ACTUALLY REPRESENTED A REASONABLE EXTENSION OF SUCH CITIZENSHIP.

10. ON SEPTEMBER 2, THE AMIR MADE HIS FIRST MOVES TO ACCOMPLISH WHAT THE ASSEMBLY HAD FAILED TO DO: HE SIGNED A "SOCIAL INSURANCE" DECREE TO INCREASE AND BETTER ADMINISTER WELFARE PAYMENTS, BEGINNING IN 1977, AND ANOTHER TO MAKE HOUSING LOANS MORE EASILY AVAILABLE FROM THE GOK SAVINGS AND CREDIT BANK.

11. COMMENT: BASED UPON THE GENERAL LACK OF PUBLIC OPPOSITION TO THE AMIR'S DECREES OF AUGUST 29, IT APPEARS THAT MANY KUWAITIS DO NOT OPPOSE A SHIFT OF LEGISLATIVE POWER AWAY FROM THE ASSEMBLY AND TOWARD THE CABINET OR TO KUWAIT'S TRADITIONAL COLLECTIVE EXECUTIVE, THE SABAH FAMILY. KUWAITI PUBLIC OPINION COULD, HOWEVER, BECOME POLARIZED AROUND ANY OF A NUMBER OF ISSUES EVOLVING FROM SUCH A SHIFT OF POWER. LACK OF OVERT OPPOSITION SO FAR TO THE AMIR'S MOVES DOES NOT MEAN THAT NONE WILL DEVELOPE AS HE BEGINS TO IMPLEMENT HIS DESIRES FOR A MORE "STABLE" DEMOCRACY. PROVIDING FAVORABLE CIRCUMSTANCES IN THE ARAB WORLD PERMIT, IT WOULD SEEM LIKELY THAT PRESSURE FOR A RETURN TO THE DEMOCRATIC DEVELOPMENT OF KUWAIT'S POLITICAL SYSTEM WILL GROW, IMPELLED BY THE IMPACT ON THE KUWAITI PEOPLE OF THE MODERNIZATION PROCESS ITSELF, INCLUDING EXPOSURE TO WESTERN EDUCATION AND TRADITIONAL FREEDOMS, PARTICULARLY IN THE BUSINESS FIELD,

WHICH THEY HAVE LONG ENJOYED. MEDIUM LEVEL GOVERNMENT OFFICIALS AND BUSINESSMEN SEEM CONVINCED THAT THIS RECENT DEVELOPEMENT IS A TEMPORARY ONE AND THAT DEMOCRATIC POLITICAL PROGRESS, INCLUDING THE RESTABLISHMENT OF THE NATIONAL ASSEMBLY, (OVER WHCIH KUWAITIS HAVE DISPLAYED CONSIDERABLE PRIDE), WILL CONTINUE. THERE WILL, HOWEVER, BE THIS HIATUS TO REESTABLISH A BALANCE, WHICH MANY OF THEM NOW AGREE IS NECESSARY, AND THERE WILL NO DOUBT BE COUNTER PRESSURES FROM KUWAITI CONSERVATIVES TO KEEP THE ASSEMBLY SUSPENDED AS LONG AS POSSIBLE, EVEN INDEFINITELY. THE SPEAKER OF THE DEFUNCT NATIONAL ASSEMBLY TOLD EMBOFF SEPT 5 THAT HE EXPECTED ASSEMBLY TO BE BACK IN ACTION J N ABOUT TWO YEARS, BUT WE ALSO HAVE REPORT THAT JABER ABDULLA AL SABAH (GOV-ERNOR OF AHMADI AND MEMBER OF RULING FAMILY) BELIEVES THERE IS CONSENSUS WITHIN FAMILY THAT THE AMIR'S FOUR-YEAR DEADLINE ON

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CONSTITUTIONAL REFORM DOES NOT MEAN THAT NPE IS COMMITTED TO REVIVING THE NATIONAL ASSEMBLY AT THAT TIME, OR AT ANY TIME.

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Message Attributes

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